

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON
May 15, 2007
9:00 AM

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on May 15, 2007, at 9:00 a.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

COMMENTS: Mr. Jon Meshel, CBL Project

RECOGNITIONS:

- City of Burlington Wellness Council Members
- Jane Smith - "Woman of the Year" - Women's Division of Alamance County Area Chamber of Commerce
- John Robert Kernodle Senior Activities Center - "Center of Excellence" Award

PROCLAMATION: "National Public Works Week" - May 20-26, 2007

MINUTES

Mayor Ross called for approval of the City Council minutes of the April 30, 2007, City Council work session and May 1, 2007, City Council meeting.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meetings held on April 30, 2007, and May 1, 2007.

ADOPTION OF AGENDA

Upon motion by Councilmember Huffman, seconded by Councilmember Jones, it was resolved unanimously to adopt the agenda.

Councilmember Wall asked to be recused from Item 1(B).

Upon motion by Councilmember Jones, seconded by Councilmember Huffman, it was resolved unanimously to allow Councilmember Wall to be recused from Consent Agenda Item 1(B).

CONSENT AGENDA:

- 1.(A) To adopt a resolution extending the Regional Geographic Information System (ReGIS) Agreement between the Cities of Burlington and Graham and the Town of Elon. Adoption of the resolution will extend the agreement through fiscal year 2008-09.

07-10

RESOLUTION BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, TO AMEND THE REGIONAL GEOGRAPHIC INFORMATION SYSTEM (ReGIS) AGREEMENT

WHEREAS, Part 1 of Article 20 of Chapter 160A of the North Carolina General Statutes authorizes units of local government to enter into contracts or agreements with each other in order to execute any undertaking; and,

WHEREAS, on August 14, 2001, the City of Burlington ("City"), City of Graham and Town of Elon ("Partners")

entered into a Regional Geographic Information System (ReGIS) Agreement; and,

WHEREAS, the City and Partners have a continued compelling and mutual interest in developing and maintaining accurate and current electronically-retrievable geographic information about themselves and their extraterritorial planning jurisdictions; and,

WHEREAS, the City and Partners recognize that at this time no single Partner can afford to individually develop and maintain an entire GIS for themselves; and,

WHEREAS, the City and Partners recognize that a regional GIS benefits their citizens by improving the efficiency and effectiveness of local government and enhancing the economic competitiveness of the area; and,

WHEREAS, the City and Partners want to ensure continued cooperation and mutual support for successful and cost effective implementation of GIS-related management information systems; and,

WHEREAS, the current ReGIS Agreement will expire at the end of the fiscal year 2006-2007.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, THAT:

Section 1: Item 2 of the Regional Geographic Information System (ReGIS) Agreement --"Duration of Agreement" -- be amended to extend the agreement through fiscal year 2008-2009.

Section 2: This resolution shall take effect upon passage of identical resolutions by all ReGIS Partners.

- (B) To approve a final plat of Phases 2 and 3, Glenmoor, Mackintosh on the Lake Subdivision, Section J-1. The property is located on Bonnar Bridge Parkway west of St. Mark's Church Road and southwest of Danbrook Road as shown on plans by Alley, Williams, Carmen and King, Inc., dated March 30, 2007, and containing 57 lots.

Upon motion by Councilmember Starling, seconded by Councilmember Jones, it was resolved unanimously to approve consent agenda Item 1(A).

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve consent agenda Item 1(B). Councilmember Wall abstained.

PUBLIC HEARINGS:

ITEM 2: REZONE PROPERTY - Digital Outdoor Advertising Structure

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from I-1, Planned Industrial District, to CI, Conditional Industrial District, to allow for the construction of a digital outdoor advertising structure. The property is located on Lawndale Drive south of Interstate 85/40 and west of Cedarcrest Drive as shown on Alamance County Tax Map 6-5, a portion of Lot 16.

Mr. Charles Bateman, Bateman, Oertel & Koonts, PLLC, stated that the property consisted of a 5.5-acre tract and had been a challenge to work with due to a ravine that runs through the center of the property. Mr. Bateman stated that his client, SDL Properties, which owns the property, was interested in outdoor advertising and requested the construction of one digital electronic LCD advertising structure. Mr. Bateman stated that the proposed location would be in the northeast corner. Mr. Bateman stated that Reverend Godair and members of the congregation of the Pentecostal Church adjacent to the property were present and were in support of the proposition. Mr. Bateman stated that his client would retain an easement across the property to access the advertising structure. He stated that the Planning and Zoning Commission recommended approval of the rezoning.

Councilmember Starling asked how the Planning and Zoning Commission voted.

Councilmember Jones stated that the Planning and Zoning Commission approved the request by a vote of three to two.

Councilmember Starling asked if there was an existing sign on the property.

Mr. Bateman responded there was an existing sign on the property that would be removed.

Councilmember Jones reiterated that a new sign was not being added just replaced.

Pastor Godair spoke in favor of the advertising structure.

Councilmember Huffman stated that staff recommended against the rezoning and asked Planning Director Robert Harkrader to explain what the Council would be venturing into when using conditional zoning in providing signs. Councilmember Huffman stated that maybe it was time the Council took a step back and look at the overall picture.

Mr. Harkrader stated that staff's objection was on the basis of whether it was good public policy to rezone properties for the sole purpose of the primary use being an outdoor advertising sign. Mr. Harkrader further stated that he would like to distinguish a request such as this from a request that comes before the Council with regard to signage in commercial developments where someone is considering an amendment or a sign package that is part of that development. He reiterated that this conditional rezoning request was for the sole purpose of an outdoor advertising sign. He stated that nothing was "wrong" with the request except that from a public policy perspective the Council could be going down a "slippery road" in terms of how these requests are evaluated in the future with regard to the interstate corridor and along major road corridors within the City.

Councilmember Jones asked if this would be a new sign or if there was an existing billboard.

Mr. Harkrader replied that was not his understanding.

Mr. Bateman stated that there was a 12 x 20 sign on the property that was used to advertise the property for sale.

Mr. Bateman stated that there was a sign on the property, approximately 12 x 20 located in the middle of the property, that for the last few years has been advertising the property for sale.

Councilmember Starling reiterated that it was a For Sale sign, not an advertising sign.

Mr. Bateman replied that it is currently a For Sale sign.

Councilmember Jones asked if it was an advertising sign in the past.

Mr. Bateman stated that he did not know the history of it but that as long as he could remember the sign had been there in the middle of the property. He stated that Larry Wagoner bought the property some years ago and the board was there when he bought it and he had put a For Sale sign on it and it had been there since. He stated using conditional zoning to selectively determine where advertising boards will be is good policy because it allows you to control the parameters, allows you to determine what use will be used adjacent to a structure.

Councilmember Huffman stated that if the City did not have an overall sign plan for the highway corridor there could be a proliferation of signage.

Mr. Bateman replied that there are limits to that because if there is a residential subdivision adjacent to a proposed location, there are many pressures that control that. He pointed out that the opportunity to have a site this is non-intrusive is rather limited.

Mayor Ross asked if the sign met the regulations of the current sign ordinance.

Mr. Bateman answered yes.

Mr. Harkrader urged the City Council to be careful from a basic policy standpoint, not necessarily speaking against this request, of getting into a situation where this is something you would do routinely.

Councilmember Huffman pointed out that the Council had been criticized numerous times for the proliferation of signs up and down the interstate corridor. He suggested entertaining this matter in a work session.

Mr. Harkrader stated that within Burlington's jurisdiction, Burlington is fairly saturated with regard to what the NCDOT and the Federal Highway Administration will allow with regard to the placement of outdoor advertising signs within the corridor. Mr. Harkrader further explained that the larger implication might be along other road corridors for the location of signs.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved to close the public hearing. Councilmember Jones voted against the motion.

Councilmember Wall stated that he would like to discuss this matter in a work session since he was not involved in the first major discussion.

Councilmember Jones stated a vote had been taken to close the public hearing.

Attorney Bob Ward stated that a motion could be made to reconsider the earlier motion, to rescind it.

Upon motion by Councilmember Starling, seconded by Councilmember Wall, it was resolved unanimously to rescind the motion to close the public hearing.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to continue the public hearing to the August 7, 2007, City Council meeting at 7:30 PM City Council meeting.

Mr. Owen stated that it would be placed on the work session agenda for July 16, 2007, at 7:00 PM.

ITEM 3: REZONE PROPERTY - STORAGE AND DISPENSING OF
BIODIESEL FUEL

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, to allow for the storage and dispensing of biodiesel fuel. The property is located at 2053 Willow Springs Lane at the northwest corner of Troxler Road as shown on Alamance County Tax Map 3-22E-50.

Planning Director Robert Harkrader stated that the request was for biodiesel pumps to be located in Willow Springs Industrial Park. He stated the petitioner was present to answer any questions.

Mr. Lyle Estel, Piedmont Biofields, Pittsboro, North Carolina, stated that he looked forward to opening the

dispensing location in Burlington and offered to answer any questions.

Councilmember Jones asked if the business was regulated by the EPA. He also asked if storage requirements had been met and if there were any fire issues.

Mr. Estel stated that the company was registered with the EPA and was compliant with the National Fire Codes.

Councilmember Huffman asked Mr. Tom Sineath to explain the co-op and how it worked.

Mr. Sineath stated that this was separate from the co-op. He stated that the co-op was a group of ten members who collect waste oil and convert it to biodiesel. He explained that Piedmont Biofields makes biodiesel on a commercial basis and had met the standards.

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Jones moved the adoption of the following ordinance:

07-17

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Willow Springs Lane for Storage and Dispensing of Biodiesel Fuel)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located at 2053 Willow Springs Lane at the northwest corner of Troxler Road as shown on Alamance County Tax Map 3-22E-50.

Section 2. That the rezoning from I-1A to CI is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Storage and dispensing of biodiesel fuel.

Development Conditions

As per site plan submitted.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Huffman, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

ITEM 4: REZONE PROPERTY - ANTHONY ROAD

Mayor Ross announced that a public hearing had been scheduled to consider rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, to allow for the following uses: warehouse, workspace, light manufacturing and all uses permitted in I-2, Light Industrial, zoning. The property is located at 1758 Anthony Road approximately 470 feet west of Old Trail Road as shown on Alamance County Tax Map 12-5C-18.

Mr. Roger Alderman, 3030 Maple Avenue, representing Splawn Associates, asked the Council to consider the rezoning request.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Councilmember Huffman moved the adoption of the following ordinance:

07-18

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property on Anthony Road for Warehouse, Light Manufacturing, Workspace and All Uses Permitted in Light Industrial District)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1A, Planned Industrial-Residential District, to CI, Conditional Industrial District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located at 1758 Anthony Road approximately 470 feet west of Old Trail Road as shown on Alamance County Tax Map 12-5C-18.

Section 2. That the rezoning from I-1A to CI is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Uses allowed: warehouse, workspace, light manufacturing and all uses permitted in I-2, Light Industrial, zoning.

Development Conditions

Per submitted site plan.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Starling, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

NEW BUSINESS:

ITEM 6: AWARD OF BID - SIDEWALK CONTRACT - SANDHILLS CONTRACTORS, INC.

Mayor Ross announced that the City Council would consider rescinding the award of bid to ECON International

and to award the bid in the amount of \$760,907.00 for sidewalk replacement to the second low bidder, Sandhills Contractors, Inc.

Public Works Director Gary Hicks requested that the Council rescind the previous bid awarded to ECON International. He stated that ECON International was unable to produce the performance and payment bonds in the proper form. Mr. Hicks asked the Council to award the bid to the second lowest bidder, Sandhills Contractors, Inc.

Upon motion by Huffman, seconded by Wall, it was resolved unanimously to rescind the award of bid from ECON International and award the bid to Sandhills Contractors, Inc., in the amount of \$760,907.00.

Upon motion by Councilmember Huffman, seconded by Councilmember Jones, it was resolved unanimously to waive the bid bond required by ECON International.

ITEM 7: STAFF REPORT:

Mayor Ross announced that Burlington Police Capt. Chris Verdeck would give a report on the State's Sex Offender Registry.

Capt. Verdeck, stated that as of May 7, 2007, there were 175 registered sex offenders in Alamance County and 104 of those lived inside the corporate limits of Burlington. Capt. Verdeck stated that as of December 1, 2006, the law had changed that when a sex offender registered they could not live within 1,000 feet of a school or day care. He stated that the Police Department was working with the Alamance County Sheriff's Department and had conducted an inspection of all registered sex offenders and that all were living within the requirements of the registry. Capt. Verdeck gave the following website address for the public to access and check the location of sex offenders: NCfindoffender.gov.

PUBLIC COMMENT PERIOD:

There were no public comments.

ADJOURN:

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk